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11 Counter-Claimant WILLIAMS SPORTS RENTALS, INC.  
12 dba SKI RUN BOAT COMPANY

13 UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF CALIFORNIA

15 IN ADMIRALTY

16 IN RE: COMPLAINT AND PETITION  
17 OF WILLIAMS SPORTS RENTALS,  
18 INC. doing business as SKI RUN  
19 BOAT COMPANY, as Owner of a  
20 certain SKI BOAT SR #57 FOR  
21 EXONERATION FROM OR  
22 LIMITATION OF LIABILITY

23 AND RELATED MATTERS

Case No. 2:21-cv-01067-DJC-CKD

Hon. Daniel J. Calabretta

**THIRD AMENDED STIPULATION  
FOR ORDER DISMISSING ALL  
CLAIMS BY ALL PARTIES, WITH  
PREJUDICE, DISMISSAL OF ALL  
PENDING PROCEEDINGS, AND  
FOR ORDER AND JUDGMENT OF  
EXONERATION**

24 COME NOW Petitioner, Cross-Defendant & Counter-Claimant WILLIAMS  
25 SPORTS RENTALS, INC. dba Ski Run Boat Company (“WSR”), Claimant  
26 CHASTITY NEFZGER, Claimant ARIANA NEFZGER, Claimant and Counter-  
27 Defendant JAMES DALE WILBURN, and Claimant and Counter-Defendant  
28 AMANDA WILBURN, through their counsel of record, and hereby stipulate,  
pursuant to Fed. R. Civ. P. 41(a)(2) & 54(b) and L.R. 137, 143 & 160 as follows:

Claimants CHASTITY NEFZGER and ARIANA NEFZGER, pursuant to  
Fed. R. Civ. P. 41(a)(2), and all other parties, hereby stipulate to the dismissal of  
their Claim(s) and Third Party Complaint ([ECF No. 11](#)) against WSR, JAMES  
DALE WILBURN, AMANDA WILBURN, and DOES 1-50, with prejudice, each  
side to bear its own costs and fees;

1 Claimant JAMES DALE WILBURN, pursuant to Fed. R. Civ. P. 41(a)(2),  
2 and all other parties, hereby stipulate to the dismissal of his Claim(s) ([ECF No. 12](#))  
3 against WSR, with prejudice, each side to bear its own costs and fees;

4 Claimant AMANDA WILBURN, pursuant to Fed. R. Civ. P. 41(a)(2), and all  
5 other parties, hereby stipulate to the dismissal of her Cross-Claim(s) ([ECF No. 14](#))  
6 against WSR, with prejudice, each side to bear its own costs and fees;

7 Counter-Claimant WSR, pursuant to Fed. R. Civ. P. 41(a)(2), and all other  
8 parties, hereby stipulate to the dismissal of its Counter Claim ([ECF No. 15](#)) against  
9 JAMES WILBURN and AMANDA WILBURN, with prejudice, each side to bear  
10 its own costs and fees, and pursuant to L.R. 160(a), withdraws its motion for  
11 summary judgment ([ECF No. 20](#)) seeking interim relief as being resolved by  
12 agreement outside of the Court; and

13 Claimants CHASTITY NEFZGER, ARIANA NEFZGER, JAMES DALE  
14 WILBURN, and AMANDA WILBURN, having dismissed, with prejudice, all  
15 claims, counterclaims, cross claims, however styled or presented, against Petitioner  
16 WSR, all parties further stipulate, pursuant to *Complaint of Am. President Lines,*  
17 *Ltd.*, 1980 AMC 1872 (N.D. Cal. April 7, 1980), *In the Matter of Hechinger*, 890 F.  
18 2d 202, 207 (9th Cir., 1967), *In re Trawler Snoopy Inc.*, 268 F. Supp. 951, 953 (D.  
19 Me 1967), to the following Order that the Court exonerate Petitioner WSR with  
20 judgment dismissing this action.

21 Dated: Nov. 5, 2023

So stipulated.

22 **WILSON, ELSER, MOSKOWITZ,**  
23 **EDELMAN & DICKER LLP**

24 By: 

25 B. Otis Felder  
26 *Certified Admiralty & Maritime Law Specialist*  
27 Attorneys for WILLIAMS SPORTS  
28 RENTALS, INC. dba SKI RUN BOAT  
COMPANY

1 Dated: Nov. 6, 2023

So stipulated.

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3 **WALKUP, MELODIA,**  
4 **KELLY & SCHOENBERGER**

5 By: /s/ Valerie N. Rose  
6 Valerie N. Rose Esq.  
7 Attorneys for CHASTITY NEFZGER  
& ARIANA NEFZGER

8 Dated: Nov. 6, 2023

So stipulated.

9 **CLAPP MARONEY**

10 By: /s/ Christopher J. Beeman  
11 Christopher J. Beeman, Esq.  
12 Attorneys for JAMES WILBURN

13 Dated: Nov. 6, 2023

So stipulated.

14 **PHILIPS SPALLAS & AGSTADT**

15 By: /s/ Gregory L. Spallas  
16 Gregory L. Spallas, Esq.  
17 Attorneys for  
AMANDA WILBURN

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**ORDER**

Further to the above-referenced stipulation of the parties and L.R. 160(a), the pending motion for summary judgment by WSR ([ECF No. 20](#)) is withdrawn as the interim relief sought has been resolved by agreement outside of the Court; and

Further to the above-referenced stipulation of the parties and Fed. R. Civ. P. 41(a)(2), all claims by Counter-Claimant WSR in its Counter Claim ([ECF No. 15](#)) against JAMES WILBURN and AMANDA WILBURN, are dismissed with prejudice, each side to bear its own costs and fees; and

Further to the above-stipulation signed by counsel for all the parties in the litigation and Fed. R. Civ. P. 41(a)(2) (see also *City of Jacksonville v. Jacksonville Hosp. Holdings, L.P.*, 82 F.4th 1031, 2023 WL 5944193, at \*3-4 (11th Cir. 2023) (stipulation for dismissal under Rule 41(a)(1) needs to be signed by counsel for all parties to the litigation); *Baines v. City of Atlanta*, 2023 U.S. App. LEXIS 28796, 2023 WL 7151188\*7 (11th Cir. Oct. 31, 2023)(same)); all claims by Claimants CHASTITY NEFZGER and ARIANA NEFZGER, as provided in their pleading ([ECF No. 11](#)), all claims by JAMES DALE WILBURN as provided in his pleading ([ECF No. 12](#)), and all claims by Claimant AMANDA WILBURN in her pleading ([ECF No. 14](#)) against WSR, as well as any others, are DISMISSED with prejudice, each side to bear their own fees and costs.

Accordingly, as provided by the foregoing stipulation of the parties and pursuant to Fed. R. Civ. P. 54(b), where there are no longer any claims pending against Petitioner and Plaintiff-in-Limitation WSR, it is entitled to a decree of exoneration. *See Complaint of Am. President Lines, Ltd.*, 1980 A.M.C. 1872 (N.D. Cal. Apr. 7, 1980) (court entered final judgment exonerating plaintiff-in-limitation from liability after all claims had been compromised); *In the Matter of Hechinger*, 890 F. 2d 202, 207 (9th Cir., 1967); 7A West's Fed. Forms, Admiralty §§ 12166 & 12168 (4th ed.); *In re Trawler Snoopy Inc.*, 268 F. Supp. 951, 953 (D. Me 1967) ("If no liability is found to exist, the petitioner is entitled to a decree of exoneration, and

1 there is no need to consider the claim to limitation.”); *see also* *WSR v. Willis et al.*,  
2 Case No. 2:17-cv-00653-KJM-JDP, Order Exonerating WSR ([ECF No. 77](#)), *rev’d on*  
3 *other grounds*; *In re S/V Miss Behavin*, 2:19-cv-03873-PA-JPR, Judgment  
4 Exonerating Owner ([ECF No. 43](#)); *In Re Seven Eight Charters LLC*, 8:22-cv-02017-  
5 FWS-DFM, Order Granting Exoneration ([ECF No. 26](#)). Accordingly, the Court  
6 dismisses these proceedings and directs the parties to file a joint proposed judgment  
7 exonerating WSR within fourteen (14) days.

8 **IT IS SO ORDERED.**

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10 Dated: December 19, 2023

/s/ Daniel J. Calabretta

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THE HONORABLE DANIEL J. CALABRETTA  
12 UNITED STATES DISTRICT JUDGE  
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